

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN FASTRICH and UNIVERSAL INVESTMENT SERVICES, INC.,)	CASE NO. 8:16CV487
)	
Plaintiffs,)	
)	
vs.)	
)	
CONTINENTAL GENERAL INSURANCE COMPANY, GREAT AMERICAN FINANCIAL RESOURCES, INC., AMERICAN FINANCIAL GROUP, INC. and CIGNA CORPORATION,)	
)	
Defendants.)	

**DEFENDANTS' JOINT RULE 12(B)(6)
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendants Continental General Insurance Company, Great American Financial Resources, Inc., American Financial Group, Inc., and Cigna Corporation (“Defendants”), by their respective attorneys, hereby each move this Court under Federal Rule of Civil Procedure 12(b)(6) to dismiss the Plaintiffs’ Complaint for failure to state a claim upon which relief can be granted.

The Defendants each move the Court for an order dismissing the Plaintiffs’ Complaint as to them because, among other things: (i) the Complaint fails to plead the basic elements of breach of contract, including the nature of the contractual terms and the manner in which they were breached by the Defendants; (ii) the Plaintiffs’ alleged damages are impermissibly speculative; (iii) the Complaint fails to allege that the Defendants wrongfully induced a third party to breach a contract with the Plaintiffs, as required to state a tortious interference claim; (iv) the alleged existence of a contract between the parties defeats the Plaintiffs’ unjust

enrichment claim; and (v) punitive damages, attorneys' fees, and litigation costs are not recoverable under longstanding Nebraska law.

In accordance with NECivR 7.1(a)(1)(A), the Defendants have submitted (i) a joint brief in support of this motion as well as (ii) limited individual supplemental briefs regarding certain defendant-specific issues.

WHEREFORE, the Defendants respectfully request that this Court enter an order dismissing the Plaintiffs' Complaint with prejudice and granting such other and further relief as the Court deems just and equitable.

Dated: February 27, 2017

CONTINENTAL GENERAL INSURANCE
COMPANY

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Bartholomew L. McLeay, an attorney, hereby certify that on February 27, 2017, I caused copies of the foregoing **Defendants' Joint Rule 12(B)(6) Motion to Dismiss Plaintiffs' Complaint** to be filed with the Court's CM/ECF system, which will cause service on the following:

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